

BOARD OF ADJUSTMENT APPLICATION  
PACKET FOR

APPEAL OF ZONING  
ADMINISTRATOR'S  
DETERMINATION

January 2007

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## APPEAL PROCESS SUMMARY

### Who Reverses or Upholds the Zoning Administrator's Determination?

The Board of Adjustment is a semi-judicial body comprised of lay people appointed by Mayor and Council to hear and decide on appeals to a determination or interpretation made by the Zoning Administrator. Decisions by the Board of Adjustment can be appealed to the Pima County Superior Court. Given the legal nature of this zoning process it is important that each applicant read and follow the submittal steps exactly as provided in this packet.

**NOTE:** Incomplete or poorly prepared application submittals are not accepted by staff for processing to the Board and are mailed back to the applicants the day after the filing deadline.

**ALSO NOTE:** The Board process is a legal process and is not geared to the nonprofessional. If you are a homeowner or business owner you strongly advised by staff to obtain the help of a professional familiar with the City's Land Use Code.

**APPLICATION PROCESS SUMMARY:** The typical Board process takes from (2) to (2 ½) months to complete from beginning to end.

The Board of Adjustment application process in a nutshell:

1. Pick up your Board of Adjustment application packet from the Zoning Administration Division, 2<sup>nd</sup> Floor DSD, 201 North Stone Avenue and through it thoroughly (See Explanation of Items).
2. Once you have read through the packet thoroughly, call staff (Russlyn Wells ext. 1134 or Wayne Bogdan ext. 1116) at 791-5550 for clarification on any of the submittal items.
3. Obtain your formal written copy of the ZA determination subject to the appeal from the Zoning Administration Division (if you don't have a copy.)
4. (Notice to your neighbors is optional - but recommended) Obtain your Board of Adjustment mailing labels from the Zoning Administration Division.
5. (Optional - but recommended) Using the Board mailing labels, mail out your "notice of application" and "offer to meet" to all affected parties.
6. (Optional - but recommended) Hold your onsite meeting with those affected parties interested in the application.
7. Referring to the "Submittal Checklist" assemble all the required application items for submittal to the Zoning Administration Division as explained in the "Explanation of Items".
8. **APPLICATION SUBMITTALS ARE BY APPOINTMENT ONLY.** Contact the Zoning Administration staff and arrange for a time in which to file your submittal with staff. **DO NOT JUST DROP OFF YOUR SUBMITTAL THEN LEAVE OR FILE YOUR SUBMITTAL BY RUNNER.** You must be present to answer staff questions.

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### NOTES:

\*Refer to "Explanation of Items"

**ZA APPEALS SUBMITTAL CHECKLIST - FOR STAFF USE ON FILING DAY**  
**(Refer to "Application Packet - Explanation of Items" for explanation of each item)**

**Date Filed:** \_\_\_\_\_

**Case Number: C10-0\_\_ -** \_\_\_\_\_

**Reviewed by:** \_\_\_\_\_

**BA public hearing date:** \_\_\_\_\_

**Project Name:** \_\_\_\_\_

**Project Address:** \_\_\_\_\_ **Zone:** \_\_\_\_\_

**[ ] ZONING ADMINISTRATOR'S FORMAL DETERMINATION**

(A copy of the Zoning Administrator's letter that contains the formal determination)

**[ ] PROOF OF APPLICANT'S MAIL NOTICE AND MEETING (OPTIONAL).**

(The applicant is encouraged to complete a neighborhood notice and meeting prior to application)

**[ ] BOARD OF ADJUSTMENT APPLICATION FORM.**

(Signed by the Property Owner)

**[ ] APPLICANT'S APPEAL ATTACHMENT.**

(Arguments and documents in support of the appeal)

**[ ] 15 FOLDED COPIES OF SUBJECT PROPERTY SITE PLAN OR TENTATIVE PLAT.**

(Contact DSD Zoning Administration Division Staff as to the plan required by the Board)

**[ ] PIMA COUNTY ASSESSOR'S PROPERTY PRINTOUT.**

(For the subject property)

**[ ] PIMA COUNTY ASSESSOR'S LOT AND BLOCK MAP.**

(For the subject property)

**[ ] BOARD OF ADJUSTMENT APPEAL FILING FEE.**

**SUBMITTAL COMMENTS BY STAFF:** \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
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**(Refer to "Application Packet - Explanation of Items" for explanation of each item)**

Case Number Issued: C10-0\_\_\_\_ - \_\_\_\_\_

**BOARD OF ADJUSTMENT APPLICATION**

Submittals must be filed in person by appointment and will be accepted **ONLY** by the Zoning Administration Staff at DSD, 2<sup>nd</sup> Floor north, Public Works Building, 201 North Stone Avenue. The submittal **MUST INCLUDE** all the items listed on the Board of Adjustment Submittal Checklist.

( The application must be filled out completely, and be signed by the property owner or authorized agent.)

**[ PROPERTY INFORMATION ]:**

**PROJECT NAME:** \_\_\_\_\_  
(For example: Al's Bar & Grill, Freimen residence carport addition, or Palo Verde Shopping Center, etc.)

**PROJECT ADDRESS:** \_\_\_\_\_  
(NOTE: If the site is vacant ask Pima Co. Addressing, 201 N. Stone, for an Administrative Address)

**ZONING OF PROPERTY:** \_\_\_\_\_ (For example: R-1, C-2, I-1 or R-1/C1 Authorized, etc.)

**PROJECT TYPE (is this):** ( ) New bldg. on vacant land, ( ) New bldg. on developed land  
( ) New addition to existing bldg., ( ) Change of Use to existing bldg. or is it  
( ) Existing bldg. needs permits. ( **X** ) **Other** (Explain) **APPEAL ZA DETERMINATION**

**[ APPELLANT INFORMATION ]:**

**AGENT** ( The person other than the appellant, processing the application, and who staff will send mailings to):

**NAME:** \_\_\_\_\_

**ADDRESS:** \_\_\_\_\_

\_\_\_\_\_ **ZIP:** \_\_\_\_\_

**PHONE:** (     ) \_\_\_\_\_ - \_\_\_\_\_ **FAX:** (     ) \_\_\_\_\_ - \_\_\_\_\_

**[APPELLANT/S]:**

**NAME:** \_\_\_\_\_

**ADDRESS:** \_\_\_\_\_

\_\_\_\_\_ **ZIP:** \_\_\_\_\_

**PHONE:** (     ) \_\_\_\_\_ - \_\_\_\_\_ **FAX:** (     ) \_\_\_\_\_ - \_\_\_\_\_

**[SIGNATURE OF APPELLANT OR AGENT]:**

\_\_\_\_\_ (NOTE: REQUIRED BY BOARD'S RULES)

## 2007 BA PROCESS DEADLINES AND MEETING DATES

Month	Mail Notice Deadline	FILING DEADLINE	PUBLIC HEARING DATE
<b>January 2007</b>	Offer to meet with affected parties must be mailed at least 10 days prior to meeting date. Meeting to occur no sooner than 15 days and no greater than 60 days prior to submittal of the application.	<b>12/26/2006</b>	<b>1/24/2007</b>
<b>February</b>		<b>1/29</b>	<b>2/28</b>
<b>March</b>		<b>2/26</b>	<b>3/28</b>
<b>April</b>		<b>3/26</b>	<b>4/25</b>
<b>May</b>		<b>4/30</b>	<b>5/30</b>
<b>June</b>		<b>5/29</b>	<b>6/27</b>
<b>July</b>		<b>6/25</b>	<b>7/25</b>
<b>August</b>		<b>7/30</b>	<b>8/29</b>
<b>September</b>		<b>8/27</b>	<b>9/26</b>
<b>October</b>		<b>9/24</b>	<b>10/24</b>
<b>November</b>		<b>10/22</b>	<b>(*) 11/14</b>
<b>December</b>		<b>11/19</b>	<b>(*) 12/19</b>
<b>January 2008</b>		<b>(*) 12/31/2006</b>	<b>1/30/2008</b>

(\*) Modifications made to processing dates due to Holidays, Thanksgiving and Christmas.

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**FEE SCHEDULE FOR  
BOARD OF ADJUSTMENT AND DESIGN REVIEW BOARD APPLICATIONS**

**I) Variances Involving Construction Or Building Permit**

**A) Residential Projects: Single family, duplex**

1. Staff Review.....	\$200.00
2. Legal Advertisement.....	\$71.00
3. Notification of Property Owners within 300' of Project Site .....	\$200.00
4. Microfiche Fee .....	<u>\$15.00</u>
<b>Total Fees</b>	<b>\$486.00</b>

**B) Non-residential projects: 3-4 Family and above, Commercial, Industrial**

1. Staff Review.....	\$600.00
2. Legal Advertisement .....	\$71.00
3. Notification of Property Owners within 300' of Project Site .....	\$200.00
4. Microfiche Fee .....	<u>\$15.00</u>
<b>Total Fees</b>	<b>\$886.00</b>

**II) Variances NOT Involving Construction, And For Appeals of Zoning Administrator Determinations**

1. Staff Review.....	\$300.00
2. Legal Advertisement.....	\$71.00
3. Notification of Property Owners within 300' of Project Site (optional).....	\$200.00
4. Microfiche Fee .....	<u>\$15.00</u>
<b>Total Fees</b>	<b>\$586.00</b>

Note: The \$200 fee paid to obtain mailing labels can be deducted from the total Board of Adjustment fees due when the application is filed.

**III) Design Review Board (DRB) Fees**

A) DRB Review.....	<b>Total Fees    \$160.00</b>
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Note: Fees can be paid by check, made payable to the City of Tucson, or cash or credit card. Board of Adjustment and DRB fees must be paid by separate checks or separate credit card charges.

## EXPLANATION OF ITEMS

### INTRODUCTION

The following explanations will provide the information needed to complete the Board of Adjustment submittal requirements in a manner that staff will deem acceptable for processing. Please read the explanations thoroughly and follow them exactly as provided. If you vary from any of these explanations you run the risk of having your application submittal rejected by staff. If you have any questions regarding this application process, call Development Services Department (DSD) Zoning Administration Division staff at 791-4541 extension 1134 or extension 1116 and ask for help.

### EXPLANATIONS (Listed Alphabetically)

APPLICANT'S APPEAL ATTACHMENT: This attachment contains the applicant/appellant's written arguments to Board explaining why, in the appellant's opinion, the Zoning Administrator's determination is in error. The written arguments should be accompanied by documents, which support the appellant's arguments.

APPLICANT'S VARIANCE/DDO LIST TO THE BOARD: List each variance or DDO request separately using the following format: *LUC* Section to be waived or modified by the Board, what is required to be provided by the project and what the project plan indicates as provided.

Note: It is the applicant and not staff that determines the variance list to the Board. When you receive your final LUC compliance review comments listing the remaining LUC regulations applicable to your project you basically have two choices: revise the plan to meet the regulations or apply for Board of Adjustment variance approval to waive or modify the regulations.

APPLICATION FORM ATTACHMENT: Both State Statutes and City of Tucson Code regulations require the Board of Adjustment to "Find" each variance request in compliance with the statements listed in Findings "a" through "g" before they grant that variance request. The Board expects each applicant to tell the Board how the variance request and project complies with each and every one of these "Findings". The "Findings" represent the only legal reasons for the Board to grant your variance.

The "Findings" basically state that there must be some physical hardship (special circumstance) to the property that prevents the project from being designed to meet the zoning regulation in full.

Reasons that should not be used to justify the variance.

"This is what the client wants", "Its my property and I want a four car garage", "A screen wall costs too much its cheaper to put in a fence or a hedge", "The required number of parking spaces is more than I need", "I can't afford to put in all the landscaping and screening the Code requires", "The bank won't finance my project unless I have a certain number of units onsite", etc.

APPLICATION FORM: The Board of Adjustment or Design Review application form must be completed in its entirety and signed by property owner or authorized agent. If signed by an agent please include a letter from the property owner authorizing the agent to act on their behalf. If you have any questions on completing this form just call staff.

BOARD OF ADJUSTMENT FILING FEE: The balance due on the Board of Adjustment application fee (total fee minus mailing label fee already paid) is required at time of submittal. Refer to the current fee schedule to determine application fees. Fees may be paid by check made payable to the City of Tucson; cash; or credit card. Failure to pay the balance due at submittal will result in Staff rejecting the application.

DESIGN REVIEW BOARD (DRB): The DRB is comprised of (7) members of the community appointed by Mayor and Council. The DRB members include registered Architects, Landscape Architects and a General Contractor. At the meeting there may be as few as three or as many as seven members attending. A DRB quorum is three members. The DRB meetings are held in the Mayor and Council Chambers, 1st floor City Hall, 255 West Alameda Street except as noted. The meetings begin at 7:30 A.M. (sharp) See the DRB Schedule of Meeting Dates. Applicants must be present at the meeting to present their case to the members. Remember the DRB is comprised of Architects and Contractors so expect detailed questions regarding the plans and project.



**DRB SUBMITTAL ITEMS:** Refer to the DRB checklist for submittal requirements.

**DRB APPLICATION FEES:** Refer to current fee schedule. This fee check is separate from the Board of Adjustment application fee check.

**FINAL LUC COMPLIANCE REVIEW COMMENTS:** Submit a detailed site plan for *Land Use Code (LUC)* compliance review to Development Services Department (DSD), 1st floor City/County Public Works Building, 201 N. Stone Avenue. Zoning Review staff will identify all (*LUC*) regulations applicable to the project. After you have made all the revisions possible to your plans, based on Zoning Review staff's prior review comments, staff will prepare the final *LUC* Compliance Review comments in a written format (e.g. Permit card, CDRC Comments, Memo, etc.) for submittal with your application.

Note: Final comments may list both *Land Use Code (LUC)* and *Development Standard (DS)* Sections. Sections listed "DS" (e.g. DS Sec. 2-15.3.1) refer to Development Standard regulations which cannot be waived or modified by the Board of Adjustment.

**LANDSCAPE, SCREENING, SCENIC ROUTE VARIANCES AND LDO APPEALS:** These requests to the Board must be submitted to the Design Review Board (DRB) for review and recommendation to the Board of Adjustment.

**MAILING LABELS:** To obtain mailing labels submit in person to DSD Zoning Administration staff the following:  
1) Complete the top portion of the "Request for Mailing Labels and Address Verification" form (be sure the site address is the official address issued by Pima County Addressing; 2) Attach the Assessor's Property Printouts applicable to the project site and the Lot and Block Map applicable to the project site; and, 3) Attach the fee check made payable to the City of Tucson.. Refer to fee schedule to determine fees for Notification of Property Owners. Fees are non-refundable.

**NOTICE TO AFFECTED PARTIES:** Prior to submittal a notice must\* be sent to the affected parties and an onsite meeting must be held. The affected parties include all owners of real property within 300' of the project site; all Neighborhood Associations registered with the City and within 1 mile of the project site; and, the Council Office whose Ward the project site is within and others as determined by the Land Use Code. \*Note: This notice is optional only for Appeals of a Zoning Administrator's Determination. However, this notice is the appellant's opportunity to win popular support for his/her argument before the Board. If the appellant chooses to send notice, it must be per these notice requirements and must be to all affected parties.

This notice and meeting is an opportunity to explain the project to the affected parties. The notice must contain the following information: the nature of the project; where the project is located; the variance(s) being requested from the Board of Adjustment; why the variance is needed; agent or property owner's name and phone number; and, the time and place of the onsite meeting. Also indicate the time and place of the Board of Adjustment hearing and include a statement that City Staff will mail out an official notice of the Board of Adjustment hearing, two weeks prior to the hearing date.

**PIMA COUNTY ASSESSOR'S PROPERTY PRINTOUT AND LOT/BLOCK MAP:** The application submittal must include a copy of the project site Property Printout(s) and Lot and Block Map. Both are available at the Pima County Assessor's Office for a small fee. The Assessor's Office is located at 115 North Church and is east of City Hall. Or you may download the information from the Assessor's Office website: [www.asr.pima.co.az.us](http://www.asr.pima.co.az.us)

- If your site includes more than one parcel, the printout for each parcel must be included.
- The printouts and map must match what is shown on the site plan.
- You must also include the Property Printouts for any property adjacent to and under the same ownership as the site.
- The Property Printout verifies for staff the current ownership of the property.
- The Lot and Block Map verifies for staff the current configuration of the property.

Important Note: Substitute documents obtained from sources other than the Assessor's Office will not be accepted by DSD Zoning Administration staff. Property Printouts and Lot and Block Maps more than six months old will not be accepted.

**PRE-APPLICATION REVIEW:** Potential Rio Nuevo and Downtown Zone (RND) applicants are strongly encouraged to present the project, in its conceptual stage, to the DRB for a pre-application review. This is a non-deliberative discussion with the DRB about the project and the RND process. This review allows the applicant an opportunity to receive DRB's input on the project's compliance with RND criteria, prior to actual submittal of the application.

**PRELIMINARY LUC COMPLIANCE REVIEW COMMENTS:** When you first submit your plans for *LUC* compliance review, staff will generate comments requesting additional information (e.g. dimensions, calculations, notes, etc.). This additional information is necessary for staff to correctly identify all zoning regulations applicable to the project. **Note:**

**Preliminary written comments or informal notes made on the plans are not acceptable in the Board of Adjustment process.**

**PRE-SUBMITTAL MEETING:** Potential Rio Nuevo and Downtown Zone (RND) applicants **MUST** attend a pre-submittal meeting with DSD staff to determine if the project requires a minor, full, or major review. Contact the Rio Nuevo Coordinator (Randy Schuler) at 791-5550. Zoning Administration staff will not process RND applications, which have not followed this process. When in doubt, call Zoning Administration Staff at 791-4541.

**PROJECT INFORMATION ATTACHMENT:** This is one or two page narrative explaining the nature project and why you need the variances. The purpose of the project information attachment is to explain to the Board of Adjustment and the DRB in simple terms the project and justifications for the variances. (For DRB submittals address only those variances being reviewed by the DRB.)

**PROJECT SITE/PARKING PLAN, BUILDING ELEVATION, FLOOR PLAN, LANDSCAPE PLAN AND PLATS:**

**Site/parking plans:** The site/parking plan must be the same detailed plans reviewed by DSD for the LUC compliance review process. Zoning Administration staff must be notified if the site plan submitted with the application is different than the site plan submitted to generate the final LUC compliance review comments.

**Landscape plans:** If the variance request is for landscaping and screening a landscape plan showing what can be provided is required.

**Building elevation plans:** For variances to the setback, building height, color regulations, include elevation plans.

**Floor plans:** Submittals that include parking variances for residential projects with more than five (5) bedrooms must include floor plans.

**Tentative plat:** For appeals Tentative Plat approvals, include applicable number of copies of the subject plat.

**PROOF OF APPLICANT'S MAIL NOTICE AND MEETING:** Include with your submittal, a copy of the letter sent to the affected parties; a meeting summary explaining what happened at the onsite meeting, who showed up and what was discussed, a copy of the sign-in sheet for the onsite meeting and proof that the notices were mailed to all affected parties. Acceptable proof includes the following documentation:

- A copy of the mailing label lists stamped as received by a postal service e.g. Post Office, Mail Boxes Etc., Postal Connection, etc. **and**
- Any official form or receipt of mailing from the postal service, **or**
- Certification of Mailing, **or**
- Certified Mail.

**Note:** Proof of applicant's mail notice and meeting is optional for an Appeal of a Zoning Administrator's Determination.

**PROPERTY PHOTOS OF THE SITE:** The DRB members do not make field trips to the case site. Therefore, the photos of the site are needed for their reference. Of specific concern will be those areas of the site subject to the variances (e.g. the street frontage for side street landscape variances, etc.). Staff needs 8 sets of the photos (labeled).

**RELATED LUC PROCESSES:** Projects that require approval through a related *LUC* process (e.g. Special Exception, Scenic Corridor Zone, Historic Preservation Zone, Rezoning etc.) must complete that review and approval prior to application to the Board of Adjustment. Also note that if the project is the site of a prior rezoning case, then review and approval from DSD Rezoning Section is required to ensure there is no conflict between the variance application and the prior rezoning conditions.

**RIO NUEVO AND DOWNTOWN OVERLAY ZONE:** The Design Review Board (DRB) reviews all projects located within the Rio Nuevo and Downtown (RND) Overlay for compliance with the design criteria established in DS 2.8.10.5.A-K and 9.05.4.0-9.05.4. If your project is located within the Rio Nuevo and Downtown (RND) Overlay Zone, you must contact Randy Schuler (Rio Nuevo coordinator) at 791-5550, prior to submittal to the DRB.

**ZONING ADMINISTRATOR'S FORMAL DETERMINATION:** Land Use Code (LUC) Section 1.2.1 states "Where questions occur concerning the content or application of the LUC, the Zoning Administrator shall render a final decision and interpretation on the matter. In making a determination, the Zoning Administrator shall rely on the purpose of the LUC Section in question". The appeals are to the Board of Adjustment. The first step to appeal to the Board is to file

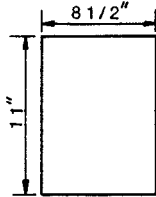
your letter of intent to appeal the Zoning Administrator's determination within 30 days of the date the determination was made in writing and signed by the Zoning Administrator. The letter of intent to appeal must be filed with Zoning Administration Division Staff, Development Services Department (DSD), 2<sup>nd</sup> Floor, 201 North Stone Avenue. The second step is to submit to the Zoning Administration staff the complete Board of Adjustment application submittal by the very next available Board of Adjustment filing deadline.

When in doubt, call **DSD Zoning Administration** at 791-4541.

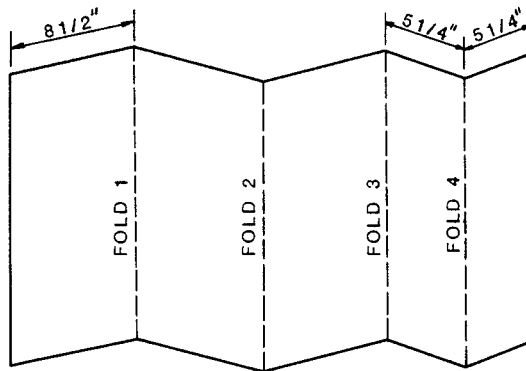
**REMEMBER ALL BA/DRB SUBMITTALS ARE FILED BY APPOINTMENT ONLY WITH THE ZONING  
ADMINISTRATION STAFF, 2<sup>ND</sup> FLOOR- NORTH, 201 N. STONE AVENUE**

## STEP 1

Using an 8 1/2" X 11" size sheet of paper as a guide, make folds 1, 2, and 3.



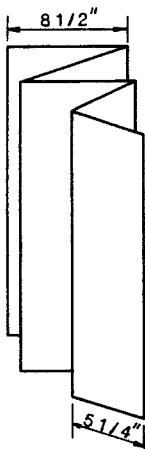
This instruction sheet is 8 1/2" X 11" size.



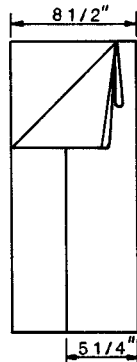
## STEP 2

Fold the remaining 10 1/2" in half; this completes fold number 4.

## STEP 3

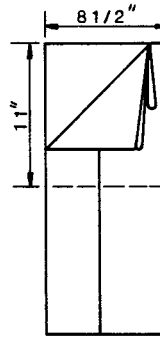


With the 5 1/4" fold to the right

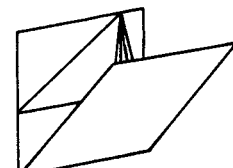


Fold down the corner, all but the last panel.

## STEP 4

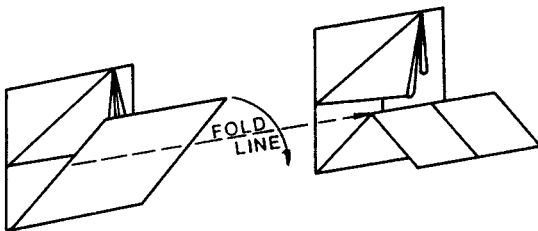


FOLD LINE



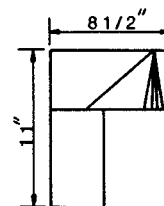
Fold the lower portion up.

## STEP 5



Fold the front part in half.

## STEP 6



The folded print should be 8 1/2" X 11".

## REQUEST FOR MAILING LABELS & ADDRESS VERIFICATION

Project Address \_\_\_\_\_

Applicant/Agent Name \_\_\_\_\_

Mailing Address \_\_\_\_\_

Phone \_\_\_\_\_

Applicant/Agent Signature \_\_\_\_\_ Date \_\_\_\_\_

**Please attach the following.** Printouts and maps must be generated from the Pima County Assessor's Database. Department of Transportation information **will not** be accepted.

☐ Assessor's Property Inquiry Printout (APIQ)  
(one printout for each lot included in the project)

☐ Assessor's Block & Lot Map

### THE FOLLOWING SECTIONS TO BE COMPLETED BY STAFF

#### LABELS ARE REQUESTED FOR THE FOLLOWING PROCESS:

☐ Environment Resource Zone

☐ WASH Ordinance

☐ Hillside Development Zone

☐ Scenic Corridor Zone

☐ Design Development Option

☐ Board of Adjustment

☐ Design Development Option (**Full Notice**)

☐ Other: \_\_\_\_\_

☐ Rezoning/SE

#### PROCESSING FEE

☐ \$200.00

☐ Check Number: \_\_\_\_\_

☐ Cash

☐ Charge Account: \_\_\_\_\_

Date Received: \_\_\_\_\_ Date Due: \_\_\_\_\_

Requested By: \_\_\_\_\_ Due To: \_\_\_\_\_

Request to: HS \_\_\_\_\_ CM \_\_\_\_\_ SM \_\_\_\_\_ Other \_\_\_\_\_

Comments: \_\_\_\_\_

Address Verification Signature \_\_\_\_\_ Date \_\_\_\_\_